

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**SHAWN LINTON WILKINS**  
**1655 County Road 514**  
**Elba, AL 36323**

**1801 County Road 514**  
**Elba, AL 36323**

**Registered Nurse License No. 702502**

Respondent

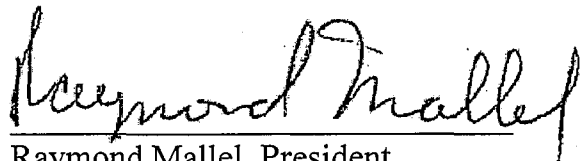
Case No. 2012-261

**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on August 23, 2012.

IT IS SO ORDERED August 23, 2012.



Raymond Mallel, President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
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Supervising Deputy Attorney General  
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*Attorneys for Complainant*

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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-261

11 **SHAWN LINTON WILKINS**

OAH No. L-2011110940

12 1655 County Road 514  
13 Elba, AL 36323

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

14 1801 County Road 514  
15 Elba, AL 36323

16 Registered Nurse License No. 702502

17 Respondent.

18 In the interest of a prompt and speedy resolution of this matter, consistent with the public  
19 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer  
20 Affairs the parties hereby agree to the following Stipulated Surrender of License and Order which  
21 will be submitted to the Board for approval and adoption as the final disposition of the  
22 Accusation.

23 **PARTIES**

24 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Interim Executive Officer of the  
25 Board of Registered Nursing. She brought this action solely in her official capacity and is  
26 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by  
27 Katherine Messana, Deputy Attorney General.  
28

2. Shawn Linton Wilkins ("Respondent") is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about April 24, 2007, the Board of Registered Nursing issued Registered Nurse License No. 702502 to Respondent. The Registered Nurse License expired on October 31, 2008, and has not been renewed.

## JURISDICTION

4. Accusation No. 2012-261 was filed before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 27, 2011. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2012-261 is attached as **Exhibit A** and incorporated by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2012-261. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2012-261, agrees that cause exists for discipline and hereby surrenders his Registered Nurse License No. 702502 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Registered Nurse License without further process.

## CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

## ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 702502, issued to Respondent Shawn Linton Wilkins, is surrendered and accepted by the Board of Registered Nursing.

1        1.    The surrender of Respondent's Registered Nurse License and the acceptance of the  
2        surrendered license by the Board shall constitute the imposition of discipline against Respondent.  
3        This stipulation constitutes a record of the discipline and shall become a part of Respondent's  
4        license history with the Board of Registered Nursing.

5        2.    Respondent shall lose all rights and privileges as a Registered Nurse in California as  
6        of the effective date of the Board's Decision and Order.

7        3.    Respondent shall cause to be delivered to the Board his pocket license and, if one was  
8        issued, his wall certificate on or before the effective date of the Decision and Order.

9        4.    If Respondent ever files an application for licensure or a petition for reinstatement in  
10       the State of California, the Board shall treat it as a petition for reinstatement. Respondent must  
11       comply with all the laws, regulations and procedures for reinstatement of a revoked license in  
12       effect at the time the petition is filed, and all of the charges and allegations contained in  
13       Accusation No. 2012-261 shall be deemed to be true, correct and admitted by Respondent when  
14       the Board determines whether to grant or deny the petition.

15       5.    If and when Respondent's license is reinstated, he shall pay to the Board costs  
16       associated with its investigation and enforcement pursuant to Business and Professions Code  
17       section 125.3 in the amount of \$1,505.00. Respondent shall be permitted to pay these costs in a  
18       payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the  
19       Board from reducing the amount of cost recovery upon reinstatement of the license.

20       6.    If Respondent should ever apply or reapply for a new license or certification, or  
21       petition for reinstatement of a license, by any other health care licensing agency in the State of  
22       California; all of the charges and allegations contained in Accusation, No. 2012-261 shall be  
23       deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of  
24       Issues or any other proceeding seeking to deny or restrict licensure.

25       7.    Respondent shall not apply for licensure or petition for reinstatement for two (2)  
26       years from the effective date of the Board of Registered Nursing's Decision and Order.

27       ///

28       ///



**Exhibit A**

**Accusation No. 2012-261**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 KATHERINE MESSANA  
Deputy Attorney General  
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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2012-261*

12 **SHAWN LINTON WILKINS**

13 1655 County Road 514  
Elba, AL 36323

**ACCUSATION**

14 Registered Nurse License No. 702502

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about April 24, 2007, the Board of Registered Nursing issued Registered Nurse  
23 License Number 702502 to Shawn Linton Wilkins ("Respondent"). The Registered Nurse  
24 License expired on October 31, 2008, and has not been renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.



1       4.     Section 2750 of the Code provides, in pertinent part, that the Board may discipline  
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason  
3 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4       5.     Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
6 licensee or to render a decision imposing discipline on the license.

7       6.     Section 118, subdivision (b) of the Code also grants the Board jurisdiction over  
8 suspended, expired, forfeited, cancelled, or surrendered licenses:

9             "The suspension, expiration, or forfeiture by operation of law of a license  
10 issued by a board in the department, or its suspension, forfeiture, or cancellation by  
11 order of the board or by order of a court of law, or its surrender without the written  
12 consent of the board, shall not, during any period in which it may be renewed,  
13 restored, reissued, or reinstated, deprive the board of its authority to institute or  
continue a disciplinary proceeding against the licensee upon any ground provided by  
law or to enter an order suspending or revoking the license or otherwise taking  
disciplinary action against the licensee on any such ground."

14       7.     Section 2761 of the Code states, in pertinent part:

15             "The board may take disciplinary action against a certified or licensed  
16 nurse or deny an application for a certificate or license for any of the following:

17             (a) Unprofessional conduct, which includes, but is not limited to, the  
18 following:

19             ...

20             (4) Denial of licensure, revocation, suspension, restriction, or any other  
21 disciplinary action against a health care professional license or certificate by another  
22 state or territory of the United States, by any other government agency, or by another  
23 California health care professional licensing board. A certified copy of the decision  
24 or judgment shall be conclusive evidence of that action."

25       8.     Section 2762 of the Code states:

26             "In addition to other acts constituting unprofessional conduct within the  
27 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
28 person licensed under this chapter to do any of the following:

29             (a) Obtain or possess in violation of law, or prescribe, or except as  
30 directed by a licensed physician and surgeon, dentist, or podiatrist administer to  
31 himself or herself, or furnish or administer to another, any controlled substance as  
32 defined in Division 10 (commencing with Section 11000) of the Health and Safety  
33 Code or any dangerous drug or dangerous device as defined in Section 4022.

34             (b) Use any controlled substance as defined in Division 10 (commencing  
35 with Section 11000) of the Health and Safety Code, or any dangerous drug or

1 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
2 in a manner dangerous or injurious to himself or herself, any other person, or the  
public or to the extent that such use impairs his or her ability to conduct with safety to  
the public the practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription,  
4 consumption, or self-administration of any of the substances described in  
subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
5 record pertaining to, the substances described in subdivision (a) of this section, in  
which event the record of the conviction is conclusive evidence thereof.

6 (d) Be committed or confined by a court of competent jurisdiction for  
7 intemperate use of or addiction to the use of any of the substances described in  
subdivisions (a) and (b) of this section, in which event the court order of commitment  
8 or confinement is prima facie evidence of such commitment or confinement.

9 (e) Falsify, or make grossly incorrect, grossly inconsistent, or  
unintelligible entries in any hospital, patient, or other record pertaining to the  
10 substances described in subdivision (a) of this section."

### 11 CONTROLLED SUBSTANCE

12 9. Diprivan ("Propofol") is categorized as a dangerous drug pursuant to section 4022 of  
the Code.

### 13 COST RECOVERY

14 10. Section 125.3 of the Code provides, in pertinent part, that the Board, Registrar, or  
15 Director may request the administrative law judge to direct a licensee found to have committed a  
16 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
17 investigation and enforcement of the case.

### 18 FIRST CAUSE FOR DISCIPLINE

#### 19 (Disciplinary Action by Another State)

20 11. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of  
21 the Code because the Alabama Board of Nursing ("Alabama Board"), the State of Florida Board  
22 of Nursing ("Florida Board") and the Arizona State Board of Nursing ("Arizona Board") took  
23 disciplinary action against Respondent's licenses in their respective jurisdictions, as follows:

24 12. On or about July 29, 2009, pursuant to Order No. 0804069, the Arizona Board  
25 accepted the Voluntary Surrender of Respondent's Arizona nursing license in the disciplinary  
26 matter entitled, *In the Matter of Registered Nurse License No. RN128932 Issued to: Shawn L.*  
27 *Wilkins*. The circumstances underlying the action are as follows:  
28

1 a. On or about September 9, 2006, Respondent was involved in a collision after he  
2 passed out at the wheel of his vehicle. When police contacted Respondent and  
3 asked him about track marks on his arms, Respondent said that he used Propofol,  
4 to help him fall asleep and that it is a drug that only surgeons use for patients prior  
5 to surgery. Respondent told the officer he had injected 5cc in each arm and said  
6 he should have waited until he got home to do it. Respondent admitted that he  
7 took the medication from the hospital without a prescription.

8 b. On or about February 15, 2008, Respondent was convicted, pursuant to a guilty  
9 plea, of driving under the influence, driving under the influence of drugs, and  
10 possession of a prescription only drug without a prescription.

11 c. On or about January 2, 2008, while employed as a registered nurse at the  
12 University of New Mexico Hospital, a Nursing Director found empty vials of  
13 Propofol in a restroom. A security report was used to identify employees who  
14 had accessed the restroom and Respondent was the only suspect. Another report  
15 identified that Respondent had accessed medication on days that he was not  
16 scheduled to work. When questioned about the incident, Respondent admitted  
17 that he had taken Propofol for his own use and to stealing drugs from December  
18 21, 2007, to December 26, 2007. As a result, on or about June 12, 2008,  
19 Respondent's New Mexico RN license was revoked by the Board of Nursing for  
20 the State of New Mexico.

21 13. On or about March 12, 2010, the Florida Board entered a Final Order in the  
22 disciplinary matter entitled, *Department of Health vs. Shawn Linton Wilkins*, Case No. 2009-  
23 16408. In the Florida Board's Final Order, the Florida Board ordered the voluntary  
24 relinquishment of License No.: RN 3416192, issued to Respondent. The Final Order was based  
25 on the findings of an investigation conducted by the Florida Department of Health. The  
26 circumstances underlying the action are as follows:

27 a. On or about September 23, 2009, the Florida Department of Health ("Florida  
28 Department") issued an investigative report in which the Florida Department

paragraph 11, subdivisions (a) through (c), inclusive, and herein incorporated by reference.

- b. On or about November 9, 2009, the Florida Department of Health issued an investigative report in which the Florida Board reviewed certified copies of a Consent Order issued by the Alabama Board, suspending Respondent's Alabama nursing license. The conduct is described in particularity in paragraph 11, subdivisions a through c, inclusive, and herein incorporated by reference.

13. On or about May 21, 2010, the Alabama Board approved and accepted a Consent Order in the disciplinary action entitled *In the Matter of Shawn Linton Wilkins License No. 1-084223 (Lapsed/Probation)*. In the Consent Order, the Alabama Board terminated the July 17, 2009 Order by the Board, granted Respondent's application for reinstatement and placed Respondent on probation for a period of sixty (60) months, with terms and conditions. The circumstances underlying the action by the Alabama Board are as follows:

- a. On or about June 12, 2008, the Board of Nursing for the State of New Mexico issued an Order revoking Respondent's New Mexico RN License, by default. The action was premised on the receipt of the New Mexico Board of evidence that Respondent diverted Propofol from stock for personal use on multiple occasions while employed as a travel nurse at the University of New Mexico Hospitals.
- b. On or about December 19, 2008, Respondent self-reported to the Alabama Board that he was addicted to Propofol and that he had diverted the drug from his place of employment as a travel nurse in New Mexico in 2006 and 2007 and in Florida in 2007.
- c. Respondent asserted that he had attended intensive outpatient treatment, but was unable to provide the Alabama Board with records regarding said treatment.
- d. Alabama Board suspended Respondent's license. Final order was approved and accepted on July 17, 2009.
- e. Respondent underwent a comprehensive chemical dependency evaluation and was diagnosed with sedative-hypnotic dependence. Respondent entered into treatment

1 at the University of Alabama on or about October 19, 2009, and was discharged  
2 on December 18, 2009.

3 f. On December 27, 2009, Respondent submitted an application for reinstatement of  
4 a lapsed license. Respondent indicated that, since his last renewal, he had: been  
5 convicted of a crime; been disciplined in another state; abused alcohol/drugs and  
6 received treatment or been recommended for treatment. Respondent also  
7 disclosed that his New Mexico license had been revoked, and that he had  
8 voluntarily surrendered his licenses in Arizona, Florida, and Massachusetts.

9 14. Under section 2761, subdivision (a)(4) of the Code the disciplinary action taken by  
10 the Florida Board, Arizona Board and Alabama Board for diverting drugs for his own use and the  
11 substantially related criminal conviction are grounds for the California Board to take disciplinary  
12 action.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct)**

15 15. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the  
16 Code on the grounds of unprofessional conduct. The conduct is more particularly described in  
17 paragraphs 10 through 14, inclusive and herein incorporated by reference.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Drug-Related Transgressions)**

20 16. Respondent is subject to disciplinary action under section 2761, subdivision (a) for  
21 unprofessional conduct as defined in section 2762, subdivisions (a) and (e) of the Code in that  
22 Respondent obtained Propofol, a controlled substance, in violation of the law, and falsified  
23 hospital and patient records to do so. The conduct is more particularly described in paragraph 11,  
24 subdivision (c) and paragraph 13, subdivisions (b) and (f), inclusive, above, and herein  
25 incorporated by reference.

26 17. Respondent is subject to disciplinary action under section 2761, subdivision (a) for  
27 unprofessional conduct as defined in section 2762, subdivision (b) of the Code in that Respondent  
28 used Propofol, a controlled substance to an extent or in a manner dangerous or injurious to

1 himself. The conduct is more particularly described in paragraph 11, subdivisions (a) through (c)  
2 and paragraph 13 subdivisions (b) and (f), inclusive, above, and herein incorporated by reference.

3 18. Respondent is subject to disciplinary action under section 2761, subdivision (a) for  
4 unprofessional conduct as defined in section 2762, subdivision (c) of the Code in that Respondent  
5 was convicted of driving under the influence, driving under the influence of drugs, and possession  
6 of a prescription only drug without a prescription. The conduct is more particularly described in  
7 paragraph 11, subdivisions (a) and (b), inclusive, above, and herein incorporated by reference.

8 P R A Y E R

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 702502, issued to Shawn  
12 Linton Wilkins;

13 2. Ordering Shawn Linton Wilkins to pay the Board of Registered Nursing the  
14 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
15 Professions Code section 125.3;

16 3. Taking such other and further action as deemed necessary and proper.  
17  
18

19 DATED: October 27, 2011

20 *Louise R. Bailey*  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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